

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 1st OF NOVEMBER, 2022

WRIT PETITION No. 9286 of 2021

BETWEEN:-

MS. LAXMI D/O LATE SHRI JAGDISH YADAV, AGED ABOUT 20 YEARS, OCCUPATION: NIL R/O VILLAGE DHANORA BASAHAT POST BORLAY TEH. AND DISTT. BARWANI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI VINAY GANDHI, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THRO. PRINCIPAL SECRETARY DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT VALLABH BHAWAN BHOPAL (M.P.) (MADHYA PRADESH)

2. THE DIRECTOR DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT DIRECTORATE WOMEN AND CHILD DEVELOPMENT PLOT NO. 28A, VIJAYARAJE VASTASALA BHAWAN ARERA HILLS BHOPAL, DISTT. BHOPAL (MADHYA PRADESH)

3. THE COLLECTOR BARWANI DISTT. BARWANI (MADHYA PRADESH)

4. THE DISTRICT PROGRAM OFFICER DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT BARWANI DISTT. BARWANI (MADHYA PRADESH)

5. THE TEHSILDAR OFFICE OF TEHSILDAR BARWANI DISTT. BARWANI (MADHYA PRADESH)

**THE PROJECT OFFICER DEPARTMENT OF WOMEN AND CHILD
6. DEVELOPMENT ASHAGRAM ROAD, BARWANI, DISTT. BARWANI
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI A.S. PARIHAR, PANEL LAWYER FOR STATE)

This petition coming on for orders this day, the court passed the following:

ORDER

Heard finally with the consent of the counsel for the parties.

2] This petition has been filed by the petitioner, who happens to be the daughter of the deceased employee, Durga w/o. Jagdish Yadav under Article 226 of the Constitution of India against orders dated 10.12.2020, and 14.12.2020 passed by the respondent No.3 the Collector, Barwani and respondent No.4 the District Program Officer, Department of Women and Child Development, Barwani respectively. Vide order dated 10.12.2020, the petitioner's claim of Rs.50 lakhs on account of death of her mother while performing Covid-19 duties has been rejected by the respondent no.4 District Program Officer and on 14.12.2020, the respondent No.4 has also rejected the same. .

3] Although in the petition, relief of compassionate appointment has also been sought, however, the State Government has already granted the aforesaid relief, so the petitioner is only claiming relief [B] which refers to grant of insurance claim of Rs.50 lakhs on account of death of her mother Durga under the State Government's Scheme known as “*Mukhyamantri Covid 19 Yodha Kalyan Yojana*”.

4] In brief the facts of the case are that the mother of the petitioner Smt. Durga was posted as *Sahyika* at Aganwadi No.1, Gram Panchayat: Dhanora, Village: Dhanora, District: Barwani and on 05.04.2020, while she was on her way to distribute nutritious food (*Sattu*) to the villagers, she stumbled upon a stone and got injured. She was taken to the Hospital, however, due to the aggravation of the injury, she died on 29.04.2020, due to *Deep Vein Thrombosis (DVT)*, a medical condition. Since the State Government had already floated the aforesaid Scheme "*Mukhyamantri Covid 19 Yodha Kalyan Yojana*" on 17.04.2020, which was also made applicable to Aganwadi Sahyika on 25.04.2020, the petitioner being the daughter of the deceased Durga, also applied for the compensation under the aforesaid scheme, which provides grant of Rs.50 lakhs to the kin of an employee, who has died on account of Covid 19 and also the employee who has died in an accident while performing Covid 19 duties. The claim of the petitioner was rejected by the respondents vide their orders dated 10.12.2020 and 14.12.2020 holding that the death has occasioned not on account of any accident, but by a sudden fall while walking, resulting in the injury on the leg of the deceased employee, regarding which neither the FIR was lodged nor the postmortem was conducted and as the death occasioned after 24 days, hence, the petitioner is not entitled to the insurance amount under the Scheme.

5] Counsel for the petitioner has drawn the attention of this Court to the report dated 07.12.2020, submitted by Tehsildar Barwani, which

clearly states that the mother of the petitioner has died on account of sudden fall while she was on her way to distribute the nutritious food (Sattu) while performing her Covid-19 duties, and as she suffered grievous injuries on her leg, she has died on account of the same. Counsel has also submitted that merely because the FIR was not lodged and the postmortem was not conducted, a person cannot be denied the benefit of the aforesaid scheme, which is beneficial in nature. Counsel has also submitted that the term accident has also not been defined in the aforesaid scheme but even otherwise an incident can be termed as an accident taking note of the surrounding circumstances and it is not necessary that in every accident, an FIR be lodged and the postmortem be conducted. Counsel has submitted that when Tehsildar himself has given a report that the mother of the petitioner has died while she was performing Covid 19 duties, there was no necessity to lodge the FIR as she has died after 24 days on account of complications of the injury and there was no need to conduct the postmortem. Thus, it is submitted that the impugned orders be quashed and the respondents be directed to extend the benefit of the scheme to the petitioner, who has lost her mother, and whose father has already passed away on 17.03.2016.

6] A reply to the petition has been filed by the State traversing the averments made in the petition and it is submitted that no case for interference is made out as the petitioner has already been granted the relief of compassionate appointment. So far as the claim of insurance amount of Rs.50 lakhs is concerned, it is submitted that since the

present case does not confirm to the certain conditions for grant of insurance as provided under Clause-4 of the aforesaid scheme, the petitioner's claim has rightly been rejected by the respondents. It is further submitted that a mere fall on the ground cannot be termed as an accident. Thus, it is submitted that the petition be dismissed so far as the grant of the insurance amount of Rs.50 lakhs is concerned.

7] Heard counsel for the parties and perused the record.

8] Facts of the case are not disputed that Smt. Durga, the mother of the petitioner was posted as *Sahyika* at Aganwadi No.1, Gram Panchayat: Dhanora, Village: Dhanora, District: Barwani and on 05.04.2020, when she was going to distribute nutritious food (*Sattu*) to the villagers while performing her Covid-19 duties, she stumbled upon a stone and injured her leg. She was immediately taken to the Hospital, however, as she developed certain complications, viz., '*Deep Vein Thrombosis*' (DVT), which is a medical condition, she died on 29.04.2020 i.e. around 24 days from the date of her fall. The petitioner's claim under the scheme has been denied on the ground that no FIR has been lodged and there is no postmortem conducted on the body of the deceased Durga, whereas, under the scheme, if an employee dies in an accident while performing Covid-19 duties, in that case the following documents are said to be necessary, which are as under:-

“ब. कोविड-19 से संबंधित सेवा के दौरान आकस्मिक मृत्यु के मामले में निम्नलिखित दस्तावेजों की आवश्यकता होगी:

1. नामांकित दावेदार व्यक्ति के द्वारा विधिवत भरा और/हस्ताक्षरित दावा प्रपत्र ।
2. मृतक का पहचान प्रमाण (प्रमाणित प्रति)
3. दावेदार का पहचान प्रमाण (प्रमाणित प्रति)
4. मृतक और दावेदार के बीच संबंधों का प्रमाणपत्र (प्रमाणित प्रति)

5. जिस अस्पताल में मृत्यु हुई हो, उस अस्पताल द्वारा निर्गत मृत्यु सारांश(यदि अस्पताल में मृत्यु हुई हो) (प्रमाणित प्रति)
6. मृत्यु प्रमाण पत्र (मूल में)
7. पोस्टमार्टम रिपोर्ट (प्रमाणित प्रति)
8. रद्द (कैंसिल) किया हुआ गया चेक (वांछनीय) (मूल में)
9. एफ.आई.आर (प्रमाणित प्रति)
10. संबंधित कार्यालय द्वारा जारी प्रमाणपत्र जिसमें यह प्रमाणित किया गया हो कि मृतक उसी कार्यालय का कर्मचारी था/कार्यरत था एवं कोविड-19 के रोकथाम हेतु कार्य कर रहा था ।”

9] No doubt, the aforesaid list of documents clearly mentioned that the postmortem report and the FIR are also required to be submitted for the claim and admittedly the petitioner has not been able to procure both these documents, namely, the FIR and the postmortem report. The said list of documents to be submitted by a person to prove the accident is based on a presumption that the accident means a road or other accident involving lodging of FIR and conduct of postmortem of the deceased. It appears that the Government lost sight of the fact that it is not necessary that in all the accidents there should be an FIR and a postmortem report. The Concise Oxford English Dictionary defines the word 'accident' as ***“1. an unfortunate incident that happens unexpectedly and unintentionally; 2. something that happens by chance or without apparent cause.”*** Thus, in the considered opinion of this court, while extending the benefit of the Scheme, the respondents are required to keep in mind the said extended definition of the word 'accident', and should not adopt a myopic view to restrict the applicability of the Scheme only in those cases where the FIR has been lodged and the postmortem has been conducted.

10] On careful perusal of the scheme i.e. *“Mukhyamantri Covid 19*

Yodha Kalyan Yojana” and the underlying object of the same, which is to provide some succour to the family members of the employees of the State Government, who died while performing Covid 19 duties during Covid -19 period, this Court is of the considered opinion that so far as the requirements of the documents to be furnished in respect of the accidental death of an employee is concerned, the same is only procedural in nature and cannot be said to override the fundamental purpose of grant of relief to the Covid-19 workers (also known as Covid warriors) and their family members. These conditions apparently do not envisages the situation as in the present case where the deceased employee has died by her accidental fall while performing Covid 19 duties and subsequently, on account of its complications, she has died within 24 days of suffering the said injury on her leg. Apparently her fall on the ground was not on account of any negligence on the part of any person, but due to her sheer bad luck that she stumbled upon a stone. In any case, when a person falls on the ground it does not necessitate lodging of any FIR in expectation that he/she would succumbed to the injuries in the said fall and when such injured has died in the Hospital only while being treated for her injury and the resultant complications, her postmortem was also not necessary as it was otherwise not a medico legal case.

11] In such facts and circumstances of the case, this Court is of the considered opinion that the denial of the claim of Rs.50 lakhs to the petitioner whose mother has died while performing her Covid-19 duties is unjust and unfair and calls for interference.

12] Resultantly, the petition stands allowed and the impugned orders dated 10.12.2020 and 14.12.2020 are hereby quashed and the respondents are directed to pay a sum of Rs.50 lakhs as promised in the “*Mukhyamantri Covid 19 Yodha Kalyan Yojana*” within a period of 30 days from the date of receipt of certified copy of this order.

13] With the aforesaid, the petition stands disposed of.

(Subodh Abhyankar)
Judge

Pankaj